IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 512 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G S R T C - Petitioner(s)

Versus

NAGJIBHAI R BORICHA - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 19/07/2005

ORAL JUDGMENT

1.0 The petitioner Corporation has challenged the order dated 30.04.1997 passed by the Labour Court, Bhavnagar in

Reference LCB No.332 of 1995, whereby the petitioner was directed to reinstate the respondent without any back wages and a penalty of stoppage of three increments with future effect was imposed on the respondent.

2.0 The brief facts of the case are that the respondent herein was working as a Conductor with the petitioner Corporation. On 03.01.1994, while the respondent was on duty, the bus was checked by the checking squad of the petitioner Corporation and the squad found certain irregularities in the issuance of tickets. Therefore, charge-sheet was issued and departmental inquiry was held against the respondent. Since the charges leveled against him were proved, he was dismissed from the service.

2.1 Against the said order of dismissal, the respondent approached the Labour Court, Bhavnagar, by way of a reference. The Labour Court, Bhavnagar, by impugned award partly allowed the said reference as aforesaid. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. The respondent workman was guilty of misappropriating the funds received

from the issuance of tickets. In the departmental inquiry held against him, the charges leveled against him were also proved. In the past also, the respondent was guilty of misconduct on approximately 40 occasions. Moreover, he was even dismissed from service on one occasion, but, was reinstated only with a view to provide him an opportunity to improve his conduct. But, the respondent did not improve his conduct.

4.0 In my opinion, the Labour Court has rightly granted him reinstatement without any back wages. However, the penalty imposed by the Labour Court appears to be on the lighter side. In my opinion, a penalty of stoppage of four increments with future effect in the place of three increments with future effect would meet the ends of justice.

5.0 In above view of the matter, this petition is partly allowed. Since the respondent workman is already reinstated in service, the direction of the Labour Court as regards granting the respondent workman reinstatement without any back wages is confirmed. So far as the direction of imposing a penalty of stoppage of three increments with future effect is concerned, it is

modified by imposing a stoppage of FOUR increments with future effect. The petitioner Corporation is directed to give all benefits to the respondent workman from the date of the publication of the award till he is reinstated in service within a period of three months from the receipt of writ of this order. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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